

In making its decision on the Hudson matter, the Department reversed an area office decision recommending approval. Such a practice is not unprecedented, although it appears that before Skibine became IGMS director, applications were often returned to Area Offices by BIA, rather than denied by letter directly to the applicants, as was done with the Hudson application. Information provided by DOI indicates there have been several instances where IGMS returned off-reservation gaming applications to Area Offices after the Area Office recommended approval, effectively rejecting the recommendation as having an insufficient basis. Three of these reversals, governed by the same statutory provisions as the Hudson application, took place before the Hudson decision was announced, one during Secretary Lujan's tenure and two during Secretary Babbitt's term.

During Secretary Lujan's tenure, in January 1992, the BIA in Washington rejected an area office recommendation dated Sept. 1, 1991, to take land into trust for gaming under Section 465

⁴⁰⁴(...continued)

There is no reliable model for predicting competitive interactions. Slot machines have greater customer appeal than table games. The existence of table games in Airway Heights should have little impact on the Spokane slot revenues at its casinos. It is possible that the new casino will stimulate gambling interest in Spokane consumers, increasing slot machine business at the Spokane Tribe's casinos. . . . Distance is only one factor in customers' complex gaming decisions, and may not be the decisive factor.

Findings of Fact attached to Letter from Bruce Babbitt to Gary Locke, Aug. 19, 1997. At the same time, DOI noted that if the Kalispel were allowed to operate slot machines due to possible changes in state law, "[t]here is no way to predict the outcome of competition, but intense competition can be expected." *Id.* Nevertheless, the application was approved. No rationale for the approval was provided other than the report of compliance with IGRA, a common practice for approval letters. No effort appears to have been made to distinguish this decision from the Hudson application. As a point of comparison to the Hudson situation, the Kalispel were seeking to operate approximately 25 miles closer to their reservation (about 60 miles away) than the closest of the Hudson applicant tribes (about 85 miles away).